

XAVIER BECERRA, SBN 118517
Attorney General of California
MARGARITA PADILLA, SBN 99966
Supervising Deputy Attorney General
JAMES POTTER, SBN 166992
Deputy Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 879-0815
Fax: (510) 622-2270
Margarita.Padilla@doj.ca.gov
James.Potter@doj.ca.gov

XAVIER BECERRA, SBN 118517
Attorney General of California
DANETTE VALDEZ, SBN 141780
ANNADEL ALMENDRAS, SBN
192064
Supervising Deputy Attorneys General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3367
Fax: (415) 703-5480
Danette.Valdez@doj.ca.gov
Annadel.Almendras@doj.ca.gov

STEVEN H. FELDERSTEIN, SBN 059678
PAUL J. PASCUZZI, SBN 148810
FELDERSTEIN FITZGERALD
WILLOUGHBY PASCUZZI & RIOS LLP
500 Capitol Mall, Suite 2250
Sacramento, CA 95814
Telephone: (916) 329-7400
Fax: (916) 329-7435
sfelderstein@ffwplaw.com
ppascuzzi@ffwplaw.com

Attorneys for California Department of Forestry
and Fire Protection, et al.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION

- and -

PACIFIC GAS AND ELECTRIC
COMPANY,

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and
Electric Company
☒ Affects both Debtors

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11

(Lead Case)

(Jointly Administered)

Date: March 10, 2020
Time: 10:00 a.m.
Ctrm: 17
Judge: Dennis Montali

**CALIFORNIA STATE AGENCIES' RESERVATION OF RIGHTS ON APPLICATION
OF THE OFFICIAL COMMITTEE OF TORT CLAIMANTS PURSUANT TO
11 U.S.C. § 1103 AND FED. R. BANKR. P. 2014 AND 5002 TO RETAIN AND
EMPLOY HON. JOHN K. TROTTER (RET.) AS TRUSTEE *NUNC PRO TUNC*
TO JANUARY 13, 2020 THROUGH THE EFFECTIVE DATE OF THE
RESOLUTION TRUST AGREEMENT [DOCKET NO. 5726]**

1 The California Department of Forestry and Fire Protection, California Department of
2 Toxic Substances Control, California Governor's Office of Emergency Services, California
3 Department of Veterans Affairs, California State University, Chico, California Department of
4 Parks and Recreation, California Department of Transportation, and California Department of
5 Developmental Services (collectively, the "California State Agencies") hereby file their
6 reservation of rights on the *Application of the Official Committee of Tort Claimants Pursuant to*
7 *11 U.S.C. § 1103 and Fed. R. Bankr. P. 2014 and 5002 to Retain and Employ Hon. John K.*
8 *Trotter (Ret.) as Trustee Nunc Pro Tunc to January 13, 2020 through the Effective Date of the*
9 *Resolution Trust Agreement* (the "Motion") [Docket No. 5726] based on the following:

10 1. As the Court is aware, the California State Agencies collectively hold substantial
11 prepetition claims related to the wildfires caused by Pacific Gas and Electric Company.

12 2. The proposed Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of
13 Reorganization Dated January 31, 2020 (the "Plan") [Docket No. 5590] provides that the fire-
14 related claims of the California State Agencies are to be paid from the Fire Victim Trust.¹

15 3. By order dated December 19, 2019, the Court approved the Tort Claimants
16 Committee ("TCC") entering into a restructuring support agreement with the Debtors and other
17 parties ("TCC RSA"). Docket No. 5174. The California State Agencies are not signatories to the
18 TCC RSA, did not agree to compromise their fire-related claims against these solvent debtors,
19 were not involved in the negotiations of the TCC RSA, were not represented by any fiduciary in
20 such negotiations like the fire survivors were by the TCC, and have maintained that their fire-
21 related claims are incorrectly classified and should not be in the Fire Victim Trust.

22 4. The Court's Amended Order Establishing Schedule for Disclosure Statement
23 Approval and Plan Confirmation [Docket No. 5732] set a March 3, 2020 deadline for filing, in
24 "substantially final" form, each of the Fire Victim Trust Agreement and the Fire Victims Claims
25 Resolution Procedures. March 3, 2020 is the same day that objections to the Motion are due.
26 Further, the Fire Victim Claim Plan Treatment Summary for the proposed Disclosure Statement is
27

28 ¹ Capitalized terms not otherwise defined shall have the same meaning as in the Plan.

1 due to be filed on February 28, 2020, a mere two court days prior to the due date for objections to
2 the Motion.

3 5. The California State Agencies reserve all rights, particularly with respect to all
4 issues regarding the governance, administration and procedures for the Fire Victim Trust, and
5 with respect to confirmation of the Plan. The primary concerns of the California State Agencies
6 with respect to the Fire Victim Trust are transparency, fair treatment and representative
7 governance should the California State Agencies respective claims remain in and be paid from the
8 Fire Victim Trust.

9 6. The California State Agencies strenuously object to the proposed classification and
10 treatment of their fire-related claims that are to be part of the Fire Victim Trust under the Debtors'
11 currently proposed Plan of Reorganization. The issue of whether the California State Agencies'
12 claims are properly classified will be briefed separately.²

13 7. Neither this statement nor any subsequent appearance, pleading, proof of claim,
14 claim or suit is intended or shall be deemed or construed as:

15 a. consent by the California State Agencies to the jurisdiction of this Court or
16 any other court with respect to proceedings, if any, commenced in any case against or otherwise
17 involving the California State Agencies;

18 b. waiver of any right of the California State Agencies to (i) have an
19 Article III judge adjudicate in the first instance any case, proceeding, matter or controversy as to
20 which a Bankruptcy Judge may not enter a final order or judgment consistent with Article III of
21 the United States Constitution, (ii) have final orders in non-core matters entered only after de
22 novo review by a District Court Judge, (iii) trial by jury in any proceeding so triable in the
23 Chapter 11 Cases or in any case, controversy, or proceeding related to the Chapter 11 Cases,

24
25 ² The California State Agencies have no desire to see the payments to the fire victims represented
26 by the TCC decreased or diluted by government fire-related claims and have repeatedly requested
27 they be removed from the creditors channeled to the Fire Victim Trust. The California State
28 Agencies assert their fire-related claims should be with the general unsecured creditor class,
where their other fire claims are scheduled and are to be paid in full. The Debtors' and
Shareholders' Plan allows equity to retain its interests, meaning it violates a fundamental
principle of bankruptcy law that all creditors must be paid in full before equity retains its
interests, unless such creditors agree to take less as a properly classified class.

1 (iv) have the United States District Court withdraw the reference in any matter subject to
2 mandatory or discretionary withdrawal, or (v) any and all rights, claims, actions, defenses, setoffs,
3 recoupments or remedies to which the California State Agencies are or may be entitled under
4 agreements, in law or in equity, all of which rights, claims, actions, defenses, setoffs and
5 recoupments are expressly reserved hereby; or

6 c. waiver of any objections or defenses that the State of California, the
7 California State Agencies or any other agency, unit or entity of the State of California may have
8 to this Court's jurisdiction over the State of California, the California State Agencies or such
9 other agency, unit or entity based upon the Eleventh Amendment to the United States
10 Constitution or related principles of sovereign immunity or otherwise, all of which objections and
11 defenses are hereby reserved.

12 Dated: March 3, 2020

Respectfully submitted,

13 XAVIER BECERRA
14 Attorney General of California
15 MARGARITA PADILLA
Supervising Deputy Attorney General

16 By: /s/ Paul J. Pascuzzi
17 STEVEN H. FELDERSTEIN
18 PAUL J. PASCUZZI
19 FELDERSTEIN FITZGERALD
20 WILLOUGHBY PASCUZZI & RIOS LLP
21 Attorneys for California Department of Forestry and
22 Fire Protection, California Department of Toxic
23 Substances Control, California Governor's Office of
24 Emergency Services, California Department of Veterans
25 Affairs, California State University, California
26 Department of Parks and Recreation, California
27 Department of Transportation and California
28 Department of Developmental Services

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I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 500 Capitol Mall, Suite 2250, Sacramento, CA 95814. On March 3, 2020, I served the within documents:

By Electronic Service only via CM/ECF.

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